

SUMMONS ISSUED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
★ JAN 23 2013 ★

TONIMARIE ESPOSITO,

Civil Action No. LONG ISLAND OFFICE

Plaintiff,

-against-

BUREAU OF COLLECTION RECOVERY,

CV-13 0385
COMPLAINT

Defendant(s).

DEMAND FOR JURY TRIAL

FEUERSTEIN, J

Plaintiff TONIMARIE ESPOSITO ("Plaintiff") by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant BUREAU OF COLLECTION RECOVERY hereinafter referred to as Defendant(s)", respectfully sets forth, complains and alleges, upon information and belief, the following:

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INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

2. Plaintiff is a resident of the State of New York, residing at 27 Steven St., Plainview, NY 11803.

3. Defendant BUREAU OF COLLECTION RECOVERY is a Minnesota corporation with its main office at 7575 Corporate Way, Eden Prairie, Minnesota 55344.

4. The Plaintiff is a "consumer" as the phrase is defined and used in the FDCPA under 15 USC §1692a (3).

5. BUREAU OF COLLECTION RECOVERY is a "debt collector" as the phrase

is defined and used in the FDCPA under 15 USC §1692a (6).

JURISDICTION AND VENUE

6. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

8. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "7" herein with the same force and effect as if the same were set forth at length herein.

9. On information and belief, Defendant, on behalf of a third-party, began collecting an alleged consumer debt from the Plaintiff.

10. On information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communicating with the Plaintiff, by calling the Plaintiff's boyfriend's (Michael Mintz) cell phone 516.469.1434 looking for the Plaintiff.

11. The Defendant called the cell phone of Michael Mintz on Jan 23rd, 2012 looking for the Plaintiff.

12. The Defendant spoke to Michael Mintz and asked him to give the Plaintiff a message to call them back. The Defendant did not provide any of the required disclosures identifying themselves as a debt collector.

13. The Defendant violated 15 USC §1692e(11) by failing to give the required disclosures that they are debt collectors attempting to collect a debt and any information

obtained will be used for that purpose in the message they left for the Plaintiff.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

14. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "12" herein with the same force and effect as if the same were set forth at length herein.

15. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC §1692 e (11).

16. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

17. Plaintiff TONIEMARIE ESPOSITO hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff TONIEMARIE ESPOSITO demands judgment from the Defendants BUREAU OF COLLECTION RECOVERY, as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);

- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: January 13, 2013
New York, New York

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582

Attorney for the Plaintiff Toniemarie Esposito

To: Bureau of Collection Recovery Inc.
7575 Corporate Way,
Eden Prairie, Minnesota 55344

(Via Prescribed Service)

Clerk,
United States District Court, Eastern of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
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CASE NO.:

TONIEMARIE ESPOSITO,

Plaintiff(s),

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COMPLAINT

*M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582*
